

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT JOHN ALTAVILLA, :

Plaintiff :

v. :

LARKSVILLE BORO :

POLICE, et al., :

Defendants :

:

ORDER

Pending before the court is the report of Chief Magistrate Judge Susan E. Schwab which recommends that the above-captioned matter be dismissed pursuant to the provisions of Fed.R.Civ.P. 41(b). (Doc. 18). No objections have been filed to Judge Schwab's report. Upon review, the report and recommendation will be adopted in its entirety.

The plaintiff filed his original complaint on July 2, 2018 (Doc. 1) and an amended complaint on July 11, 2018 (Doc. 10). The plaintiff was directed on two occasions, July 11, 2018 (Doc. 11) and August 27, 2018 (Doc. 14), to serve the summons and complaint upon the defendants. A summons was ultimately returned on September 4, 2018 demonstrating service upon the defendants with answers due September 24, 2018. (Doc. 16). After the return of the summons, no activity occurred in the matter and, as such, by order dated April 5, 2019, the plaintiff was directed to show cause why the action should not be dismissed pursuant to Fed.R.Civ.P. 41(b). The plaintiff never

responded to the show cause order. Accordingly, the instant report was issued on May 21, 2019, recommending dismissal of the action pursuant to Fed.R.Civ.P. 41(b). (Doc. 18). Although advised of his right to do so, the plaintiff has failed to file objections to the report.

When no objections are filed to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

The court has reviewed the record in this case and finds no clear error of record. The court agrees with the sound reasoning which led Judge Schwab to conclude that the plaintiff’s complaint should be dismissed pursuant to the provisions of Fed.R.Civ.P. 41(b). Therefore, the court will adopt the report of Judge Schwab in its entirety.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

(1) The report of Judge Schwab, (Doc. 18), is ADOPTED IN

ITS ENTIRETY.

- (2) The instant action is **DISMISSED** pursuant to the provisions of Fed.R.Civ.P. 41(b).
- (3) The Clerk of Court is directed to **CLOSE THIS CASE.**

s/ *Malachy E. Mannion*
MALACHY E. MANNION
United States District Judge

Date: July 12, 2019

18-1326-01.wpd